

Conference Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 256

HOUSE BILL 2160

AN ACT

AMENDING SECTION 32-1391.05, ARIZONA REVISED STATUTES; RELATING TO
PREARRANGED FUNERAL AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1391.05, Arizona Revised Statutes, is amended to
3 read:

4 32-1391.05. Prearranged funeral agreements funded by trusts:
5 definition

6 A. All monies paid under a prearranged funeral agreement funded by
7 trust, EXCEPT AS PROVIDED IN SUBSECTION B, shall be deposited, within five
8 business days after the receipt of the monies, in a prearranged funeral trust
9 account with a financial institution doing business in this state. The
10 monies shall be invested either in federally insured accounts, in which case
11 the amounts so deposited shall not exceed the amount of the deposit
12 insurance, or in direct obligations of the United States government.
13 Federally insured accounts are defined as accounts insured by the federal
14 deposit insurance corporation or the national credit union administration
15 board. If invested in direct obligations of the United States government,
16 the maturity dates of such obligations shall not exceed three years, unless
17 rules adopted by the superintendent of financial institutions permit a longer
18 period and not less than five per cent of the amounts so deposited shall at
19 all times be deposited in federally insured accounts.

20 B. ALL MONIES PAID UNDER A FIXED PRICE PREARRANGED FUNERAL AGREEMENT
21 FUNDED BY TRUST SHALL BE DEPOSITED, WITHIN TWENTY-ONE CALENDAR DAYS OR
22 FIFTEEN BUSINESS DAYS, WHICHEVER IS SHORTER AFTER THE RECEIPT OF THE MONIES,
23 IN A PREARRANGED FUNERAL TRUST ACCOUNT WITH A FINANCIAL INSTITUTION DOING
24 BUSINESS IN THIS STATE. IN INVESTING THESE MONIES THE TRUSTEE SHALL EXERCISE
25 THE JUDGMENT AND CARE OF A PRUDENT INVESTOR UNDER THE PREVAILING
26 CIRCUMSTANCES.

27 ~~B.~~ C. Except as provided in this article:

28 1. All monies deposited in a prearranged funeral trust account and all
29 accrued interest shall be held in the trust account for and remain the
30 property of the beneficiary during the beneficiary's life and of the
31 beneficiary's estate after the beneficiary's death.

32 2. A funeral establishment or another person shall not withdraw,
33 transfer, remove, commingle, encumber or use as collateral any monies paid to
34 the establishment under a prearranged funeral agreement funded by trust.

35 3. All monies deposited and accrued interest in a prearranged funeral
36 trust account shall be exempt from attachment, garnishment, execution and
37 claims of creditors, receivers and trustees of the funeral establishment
38 other than the claims of the beneficiary or the beneficiary's estate.

39 4. All monies deposited and accrued interest in a prearranged funeral
40 trust account up to a total of five thousand dollars shall be exempt from
41 attachment, garnishment, execution and claims of creditors, receivers and
42 trustees of the beneficiary other than the claims of the funeral
43 establishment.

1 ~~C.~~ D. A funeral establishment may direct the financial institution in
2 which the trust monies are deposited to transfer the trust account to another
3 financial institution after providing each participant in the trust with the
4 name and location of the institution and the new trust account number.

5 E. FOR THE PURPOSES OF THIS SECTION, "PRUDENT INVESTOR" MEANS A PERSON
6 WHO EXERCISES THE SAME CARE AND EXPERTISE AS A PERSON OF ORDINARY PRUDENCE,
7 DILIGENCE, DISCRETION AND JUDGMENT WOULD EXERCISE IN THE MANAGEMENT OF THE
8 PROPERTY OF OTHERS, NOT IN REGARD TO SPECULATION, BUT IN REGARD TO THE
9 PERMANENT DISPOSITION OF THE FUNDS CONSIDERING THE PROBABLE INCOME AS WELL AS
10 THE PROBABLE SAFETY OF THE CAPITAL TO BE INVESTED.

APPROVED BY THE GOVERNOR APRIL 26, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2011.

Passed the House February 22, 20 11

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 5, 20 11

by the following vote: 20 Ayes,

8 Nays, 2 Not Voting

[Signature]
President of the Senate

Charmian Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2160

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 19, 20 11

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 19, 20 11

by the following vote: 23 Ayes,

7 Nays, 0 Not Voting

[Signature]
President of the Senate

Charmie Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 11

at 8:30 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 26th day of

April

at 2:30 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 26th day of April, 20 11

at 4:57 o'clock P. M.

[Signature]
Secretary of State

H.B. 2160